EUB

Guidelines for Utility Cost Claims

January 2004

Alberta Energy and Utilities Board

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Guidelines for Utility Cost Claims

January 2004

IMPORTANT MESSAGE ABOUT CLAIMS FOR UTILITY COST CLAIMS

DON'T BE LATE!

Your claim must be received by the EUB within 30 days of the hearing, unless otherwise directed by the Board. If the costs claimed relate to a negotiated settlement, interveners must provide their claims to the applicant within 30 days of the date upon which the settlement is approved by the Board or abandoned by the parties, and the applicant must file its claim with the EUB within the following 30 days. **IF YOUR CLAIM IS LATE, YOU MAY NOT BE AWARDED COSTS.** (See page 4 of this guide.)

QUALIFYING

Reasonable costs are usually awarded, but there is no guarantee that any or all of your costs will be awarded. All cost claims must comply with the Scale of Costs, and only reasonable costs will be recognized. (See pages 2-3.)

USE THE FORM

A properly completed form will speed up the process. (See pages 4-5.)

QUESTIONS?

If, after you have consulted this guide, you have any questions about filing your claim, please call the EUB Law Branch at (403) 297- 7029 for assistance. To call toll free, dial 310-0000 and then enter the 7-digit number to connect or press zero and hold for a RITE operator. Collect calls relating to cost claims will also be accepted.

The guidelines contained within this guide, including the Scale of Costs, are effective August 1, 2001.

ALBERTA ENERGY AND UTILITIES BOARD
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Alberta Energy and Utilities Board
640 – 5 Avenue SW
Calgary, Alberta
T2P 3G4

Telephone: (403) 297-8311
Fax: (403) 297-7040

Web site: <www.eub.gov.ab.ca>

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1 Introduction

Section 68 of the *Public Utilities Board Act* (Appendix A) empowers the Alberta Energy and Utilities Board (EUB/Board) to award participants in a utility proceeding the reasonable costs associated with their involvement. Part 5 of the EUB's *Rules of Practice* (Appendix B) describes the manner in which cost claims must be filed and details the process used by the Board to assess the claims it receives. Finally, the EUB's *Scale of Costs* (Appendix C) details the fees and disbursements eligible for reimbursement in relation to a claimant's participation in a proceeding before the Board.

It is the EUB's position that the responsibility to positively contribute to the process is inherent in the choice to intervene in a proceeding. The EUB expects that those who choose to participate will prepare and present a position that is reasonable in light of the issues arising in the proceeding and necessary for the determination of those issues. When determining a cost award, the Board will consider if the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

As the costs of an intervention are generally passed on to customers, it is the Board's duty to ensure that customers receive fair value for their contribution. As such, the Board only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

The onus of demonstrating that the costs claimed are reasonable and directly and necessarily related to the proceeding rests with the claimant.

The EUB's experience with utility cost claims has shown that participants require

- a degree of certainty as to what costs will be judged acceptable for reimbursement,
- a realistic and up-to-date indication of acceptable costs,
- certainty with respect to procedure, and
- a realistic understanding of how the Board assesses a claim for costs and how long the assessment takes.

1.1 2004 Update to *Guide 31B*

This updated guide applies to utility proceedings commencing March 1, 2004, and thereafter.

The updated guide addresses recent amendments to the *Rules of Practice* that relate specifically to cost recovery for participants in utility proceedings. The updated guide also provides guidance to parties seeking costs in relation to a review proceeding. Further, the updated guide provides some clarifications with respect to the materials that must accompany a claim for costs. Finally, the updated guide reflects the renumbering of many of the provisions of the Board's governing legislation when the statutes of Alberta were revised in 2002.

1.2 Purpose of This Guide

This guide addresses the following questions:

- What costs may be claimed in utility proceedings?

- When should a cost claim be filed?
- How should a cost claim be filed?
- Is advance funding available for interveners?
- Is interim funding available for extended proceedings?
- When does the EUB require participants to file advance budgets?
- Will the EUB predetermine a participant's business interest status in utility proceedings?
- May a cost decision be appealed?
- How and when should a cost claim for a negotiated settlement be filed?
- How does the Board assess costs for review and variance proceedings?

2 What Costs May Be Claimed in Utility Proceedings?

2.1 What Are Reasonable Costs?

The Board assesses each cost claim on its own merits, having regard for the context in which the claim arose. Section 55 of the *Rules of Practice* describes the factors the Board will consider when assessing a claim for costs. The guiding principles are enunciated in Section 55(1), which reads as follows:

> (1) The Board may award costs to a participant if the Board is of the opinion that
>
> (a) the costs are reasonable and directly and necessarily related to the proceeding and
>
> (b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

The Board emphasizes that the two considerations detailed in Section 55(1) are not mutually exclusive. As such, even if the Board determines that a participant's involvement in a proceeding contributed to a better understanding of the issues before the Board, it may determine that the costs claimed are disproportionate to the value provided and direct that a reduced amount be awarded.

When determining whether the costs claimed by a participant are reasonable, the Board will also have reference to the factors listed in Section 55(2) of the *Rules of Practice*. Pursuant to those provisions, the Board may deny a claim for costs, in whole or in part, if

- the participant's cross-examination is unduly repetitive of previously conducted cross-examination;
- the participant's evidence is unduly repetitive of evidence previously presented;
- the participant presented in oral evidence significant new evidence that was previously available but not filed;
- the participant failed to comply with a direction of the Board;
- the participant submitted evidence or argument that was not relevant to the proceeding;
- the participant engaged in conduct that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;

- The Board did not hold a written or oral hearing on the matter;
- the Board is not satisfied that the intervention was conducted economically; or
- the participant's involvement in the proceeding was solely to protect its business interests.

Some examples of costs that might not be considered reasonable are

- costs related to the assembly and presentation of a large volume of material, published or otherwise, with which the intervener is not familiar and which cannot be properly supported or clarified by witnesses at a hearing;
- costs related to more than one witness or expert dealing with the same or essentially similar material for the same intervener;
- costs related to an appeal of a decision of the Board to the Alberta Court of Appeal;
- costs that clearly exceed those normally paid for goods, materials, or services; and
- costs relating to the preparation of the claim for an award of costs.

2.2 Cooperation Among Parties

The Board recognizes that participants in utility proceedings have divergent interests with respect to the desired outcome. However, the Board is of the view that duplication of efforts has in the past contributed to the generation of costs that could have been eliminated through greater cooperation among parties.

In *Utility Cost Order (UCO) 2002-06*, the Board stated that "it is incumbent upon interveners to reduce, and where possible, eliminate duplication of effort to ensure that the costs borne by customers are fair and reasonable." Where the Board finds overlap in evidence, costs may either be denied or reduced accordingly. Parties must, therefore, communicate with each other prior to hearings in order to coordinate their efforts. Animosity among parties or an unwillingness to cooperate are not acceptable reasons for failing to coordinate efforts. Where the Board finds that parties have caused hearings to extend longer than required due to duplication, and therefore adding no value, costs will either be reduced or denied.

2.3 The Scale of Costs

The EUB's Scale of Costs (Appendix C) details what fees and disbursements are eligible for reimbursement in relation to a party's participation in a proceeding before the EUB. The Scale of Costs represents a fair tariff to provide an interested party with adequate, competent, and professional assistance in making an effective submission before the Board.

If a party can advance persuasive argument that the tariff is inadequate given the complexity of the case, the Board may adjust the Scale of Costs to address such unique circumstances.

2.3.1 Professional Fees

The Scale of Costs provides a sliding scale for professionals to reflect the notion that a professional's fees will increase as he or she gains expertise. The EUB emphasizes that the maximum allowable hourly rates are not awarded as a matter of course. Rather, the

Board assesses each claim upon its individual merits and only approves the maximum fee when it has been demonstrated that such a fee is warranted by the work performed.

2.3.2 Disbursements

The Scale of Costs details the disbursements eligible for reimbursement in a utility proceeding. Again, the Board directs reimbursement of only those disbursements that in the Board's opinion are reasonable and directly and necessarily related to the proceeding in question. The Scale of Costs also lists those disbursements that require backup receipts or invoices in order to be considered for reimbursement.

3 When Should a Cost Claim Be Filed?

Unless otherwise directed by the Board, participants must file their cost claims within 30 days of the close of the proceeding for which the costs are claimed. This filing limitation period is clearly established by Section 53(3) of the *Rules of Practice*.

A proceeding is considered closed when the Board has heard or received final argument from all the participants involved in the hearing. The Board may give participants notice of its intention to extend the filing period. In the absence of such notice, participants must comply with the 30-day filing time.

Cost claims not received within the 30-day period are not considered unless special circumstances exist. If in the opinion of the Board the circumstances cited do not justify the late filing of the claim, the Board considers the claim withdrawn.

Parties seeking a relaxation of the 30-day rule must seek the relaxation within the 30-day limitation period.

4 How Should a Cost Claim Be Filed?

4.1 Cost Forms

In an effort to streamline and simplify the cost filing process, the EUB has developed a set of summary information forms that all claimants must complete and submit with every claim for costs. Claims filed that do not use the forms will not be considered. The forms, which appear in Appendix D, are

- Form U1 – Summary of Total Costs Claimed
- Form U2 – Summary of Professional Fees Claimed
- Form U3 – Summary of Disbursements Claimed
- Form U4 – Affidavit of Fees and Disbursements Claimed

Sample completed forms appear in Appendix E.

These forms are also available on the EUB's Web site at www.eub.gov.ab.ca. Those accessing the cost forms through the Web site have three options for completing the forms:

- The forms may be downloaded as Microsoft Excel files. As claimants fill in the data indicated, all necessary calculations will be performed automatically.

- The forms may be downloaded in PDF format. Claimants must fill in all columns and perform the necessary calculations on their own.
- The forms may be printed from the Web site and completed manually.

The summary forms and affidavit may be e-mailed directly to eub.utilitycosts@gov.ab.ca. In addition to the e-mailed forms, claimants must also send one paper copy to the EUB, attaching the necessary receipts and backup documentation, as described in the Scale of Costs.

The Board only requires *one* paper copy of a claimant's cost claim.

Completed forms should be sent to the EUB

- by fax to (403) 297-7031, or
- by courier or mail to
  Alberta Energy and Utilities Board
  Law Branch
  640 - 5 Avenue S.W.
  Calgary, AB T2P 3G4
- or by e-mail to Holly.Lee@gov.ab.ca

4.2 Proceedings with Multiple Applicants

Sometimes a utility proceeding will be convened to consider multiple applications by different applicants. In the past, participants have provided the Board with a single cost claim and have asked the Board to allocate its costs among the participating applicants. This practice required significant effort on behalf of the Board and resulted in delays in the final assessment of the proceeding's cost claims.

The Board will no longer allocate a participant's cost claim among applicants in multiple applicant proceedings. In such situations, participants must file a separate package of utility cost forms for each applicant. Parties that fail to comply with this guideline will have their cost claims returned, potentially resulting in delayed consideration of the cost claims.

4.3 Submission of Justification

The Board may not always be fully apprised or aware of the efforts of a party or its level of participation in a proceeding before the Board. Often interveners cooperate extensively prior to a proceeding without the Board's knowledge, and a participant's contribution may not be obvious to the Board. Further, the relevance of the fees and disbursements claimed by a party is not always clear to the Board. Therefore, any additional information in that regard is of assistance when assessing a claim for costs. In an effort to address this issue, the Board now requires participants to file a submission detailing its role in the proceeding and justifying the costs claimed, in addition to the above forms.

If a participant fails to provide justification for fees claimed or an explanation of activities performed and the Board considers that the participant has not assisted the Board in better understanding the issues before it, the Board will not award costs. All participants are reminded that costs awarded are ultimately borne by customers and the Board considers it an obligation of participants to help ensure that the costs borne by customers are fair and reasonable.

Parties should explain

- what tasks they have undertaken,
- why they appeared before the Board,
- what efforts were expended to avoid duplication, and
- why the costs submitted are reasonable.

It is expected that parties will be specific in the documentation of their efforts.

Participants should address any other factor they feel will assist the Board when considering their claim. The submission is an element of a participant's cost claim and must be filed within the 30-day period provided for in Section 53(3) of the *Rules of Practice*.

Once the Board has received the required forms and the claimant's submission, it will review its claim. The onus is on the claimant to provide sufficient information for the Board to effectively assess its claim. In that regard, submissions should address the specifics of the proceeding.

The Board may conduct random audits of cost claims and may subsequently direct a claimant to produce supporting documentation for its claim. Such documentation will include all invoices, receipts, and accounts related to the claim.

If the Board requests such documentation and the claimant is unable to produce it, the Board will regard that portion of the claim for which no backup documentation exists as withdrawn. Therefore, it is important that claimants retain all documentation relating to their cost claim.

4.4 Affidavit of Fees and Disbursements

All participants are required to file an affidavit in support of their cost claim using Form U4. The affidavit may be signed by the intervener or his/her agent (lawyer, consultant).

5 Is Advance Funding Available to Interveners?

Section 50 of the *Rules of Practice* provides the Board with the discretion to award an advance of funds to an intervener in support of its participation in a proceeding before the Board if the participant demonstrates a need for financial assistance to address relevant issues in the proceeding. The Board takes into consideration whether the party has a bona fide interest in the proceeding, the costs incurred related to the proceeding, and the length of time that may elapse before final costs are awarded.

When making an award of advance funding pursuant to Section 50, it is the Board's practice to award only a percentage of the costs claimed exclusive of GST.

Applicants for advance funding are required to supply the Board with the following information:

- name of the intervener;
- mailing address of the intervener;
- name of the intervener's solicitor, if represented by counsel;

- application number and name of the proceeding in question;
- a detailed budget that clearly outlines the expenses that the intervener reasonably expects to incur in the preparation and presentation of its intervention (the necessary contents of a budget are described in detail in Section 8 below); and
- reasons why the advance of funds is required.

Following the receipt of the above information, the Board will consider the intervener's request and provide its decision in a timely fashion. All intervener cost claims are reviewed and assessed by the Board following the proceeding. The Board carefully compares the advance-funding budget filed by the intervener with the costs ultimately claimed. Should the final costs exceed the budgeted costs, the intervener must explain in its cost submission why it was unable to comply with its budget.

When advance funding is awarded, the Board makes no determination respecting the value of the intervener's participation. **Any intervener that accepts advance funding accepts the risk that if its final cost award relating to the proceeding is less than the amount of the advance funding provided, it will be required to repay the difference.**

6 Is Interim Funding Available for Extended Proceedings?

In addition to providing the Board with the discretion to award advance funding, Section 50(1) of the *Rules of Practice* allows the Board to consider requests for interim funding for proceedings of extended duration. Such proceedings often result in interveners being forced to carry the expenses of an intervention for an extended period of time.

When making interim funding awards under Section 52 of the *Rules of Practice*, it is the Board's practice to award a percentage of the costs claimed exclusive of GST.

Interveners requesting interim funding are required to file a copy of Form U1 with the EUB summarizing the total fees and disbursements claimed. The Board will direct applicants to pay interim costs on the condition that the intervener may be required to return some or all of the funds paid if upon final assessment, the final costs claimed are deemed to be unreasonable or unjustified for any of the reasons or factors listed in Subsection 55(2) of the *Rules of Practice*.

7 When Are Interveners Required to File Budgets Prior to a Proceeding?

Section 51 of the *Rules of Practice* gives the Board the discretion to have interveners file a budget of their anticipated costs at any time during a proceeding. While the Board will not require such a budget for every hearing, it is the Board's position that the prefiling of budgets for long and complex hearings is beneficial to all involved.

Should the Board decide that budgets must be filed for a particular hearing, it will initiate the budget process soon after the filing of an application and establish timelines for budget submissions.

Every budget must include a detailed proposal outlining the professional assistance (i.e., lawyers, experts, and/or consultants) the intervener intends to hire, the qualifications of those professionals, the issues the intervener intends to address, and the work that each professional will undertake in support of the intervention. Further, all proposals must also

contain a detailed budget outlining the expenses the intervener expects to reasonably incur in pursuit of its intervention or application.

All intervener cost claims are reviewed and assessed by the Board following a proceeding. The Board carefully compares the budget filed by the participant with the costs ultimately claimed. Should the eventual costs exceed the budgeted costs, the intervener will be required to file a submission with the Board explaining why it was unable to comply with its budget.

8 Predetermination of Business Interest Designation

The *Rules of Practice* were amended to add Subsection 55(2)(h.1). The amended subsection now reads:

> 55(2) In determining the amount of costs, in accordance with the scale of costs, to a participant, the Board may consider whether the participant did one or more of the following:
>
> (h.1) in utility proceedings, the participant took part in the proceedings for the sole purpose of protecting the participant's business interests;

The Board intends to assess the nature of a participant's involvement on a case-by-case basis. However, the Board recognizes that some parties may wish to have a predetermination by the Board with respect to whether Subsection 55(2)(h.1) would apply to it in a particular proceeding.

Parties wishing such a predetermination must provide the Board with the following information:

- name of the intervener;
- mailing address of the intervener;
- name of the intervener's solicitor, if represented by counsel;
- application number and name of the proceeding in question; and
- a detailed description of the participant's position with respect to the application and the work its counsel and experts propose to do in support of their client's intervention.

While the Board has not imposed a time limit for the filing of a predetermination application, it encourages participants to file such applications as soon as possible after the Notice of Proceeding has been issued.

9 May a Cost Decision Be Appealed?

Claimants dissatisfied with a cost decision of the Board have two options. They may request the Board to review their claim pursuant to Section 58 of the *Rules of Practice*, or they may appeal the Board's cost decision to the Alberta Court of Appeal, pursuant to Section 70 of the *Public Utilities Board Act* or Section 26 of the *Alberta Energy and Utilities Board Act*.

9.1 Reviews

A party to a cost order may apply to the Board for a review of the order. An application for review must be made in accordance with Section 46 of the *Rules of Practice* (Appendix F) and must be made within 30 days of the date of service of the order.

9.2 Appeals to the Alberta Court of Appeal

Those who wish to appeal a cost order of the Board must make their application for leave to appeal within 30 days of the date upon which the Board made the cost order. A request for a review of the order, however, will not act as a stay of the time limit for seeking leave to appeal. Therefore, those who wish to request a review of a cost order and also wish to preserve their right to appeal must seek leave to appeal within the 30-day period.

The Board's cost recovery policy does not apply to costs relating to an appeal to the Alberta Court of Appeal.

10 Costs Related to Review Requests and Review Hearings

10.1 Cost Claims When the Review Request Is Denied on the Preliminary Question

Section 46 of the *Rules of Practice* provides that the Board may review, on its own initiative or on an application by a person, an order, decision, or direction made by it. Section 46 dictates that when considering a review request, the Board will first determine the preliminary question of whether the matter should be reviewed and whether there is reason to believe that the order, decision, or direction should be rescinded or varied.

The costs related to utility proceedings are generally borne by customers by inclusion of those costs in the utilities revenue requirement. It is the Board's view that customers should not be required to bear the costs associated with a failed review request initiated by a utility as, in the Board's view, there is little, if any, customer benefit associated with such a process. As such, if a utility files a review request that is dismissed on the preliminary question, the costs incurred by the utility and the costs incurred by interveners in that regard shall not be recovered from customers as part of the utility's revenue requirement, but rather shall be borne by the utility's shareholders and shall not form the basis of or be included in any way into forecasts used to apply for rate increases. If an intervener files a review request that is dismissed on the preliminary question, the intervener shall bear its own costs, and the utility's costs shall be assigned to its general legal costs account. As with all costs awards, the Board will assess the costs claims in accordance with Section 55 of the *Rules of Practice*.

While the Board shall continue to assess each cost claim associated with a review request upon its own merits, it intends to apply these guidelines unless interested parties can demonstrate that the application of the guidelines would be inappropriate in the circumstances.

10.2 Payment of the Board's Own Costs When a Review Request Is Denied on the Preliminary Question

The Board further notes that Section 68(2) of the *Public Utilities Board Act* specifically provides that the Board may require parties to pay the Board's own costs associated with a proceeding before it. The Board may choose to apply this provision to review

applicants in situations where the review is denied on the preliminary question. The Board will consider the application of this provision on a case-by-case basis. Factors that the Board will consider in this regard include, but are not limited to:

- whether the grounds stated for the review are similar or identical to the grounds raised by the party prior to the Board making the original decision, direction, or order;
- whether the grounds stated for the review are based upon an alleged change in circumstances that could not reasonably be expected to affect the original decision; and
- whether the grounds stated for the review are frivolous or otherwise of little merit.

10.3 Cost Claims When a Review Hearing Is Convened

When the Board decides to grant a review proceeding pursuant to Subsection 46(5)(b) of the *Rules of Practice*, it has recognized that the review applicant has raised a legitimate concern that requires further contemplation by the Board. As a decision on the matter may potentially affect interested parties, the Board is of the view that the proceeding should be treated in the same way as a proceeding in the first instance and that the Board's general cost guidelines apply. As such, all of the reasonable costs associated with the proceeding, including those costs associated with the preliminary question, shall be considered by the Board when it is determining the appropriate cost award.

10.4 When Should a Review and Variance Cost Claim Be Filed?

Cost claims arising out of review and variance applications must be filed within 30 days of

- the review and variance application being dismissed by the Board on the preliminary question; or
- 30 days following final argument when the Board has approved the review and variance application and conducts a review proceeding.

11 Negotiated Settlements

11.1 How and When Should a Cost Claim for a Negotiated Settlement Be Filed?

In the case of costs claimed in relation to a negotiated settlement, interveners first provide their cost claims to the proceeding applicant, who in turn files a single cost claim with the Board. Interveners are required to submit their cost claims to the applicant within 30 days of

- the date upon which settlement is approved by the Board, or
- the date upon which the settlement is abandoned.

The applicant will then have 30 additional days to prepare and file its claim. The applicant should use the cost forms described in Section 4.1 in making its submission to the Board

All cost claims for a negotiated settlement must be in accordance with the EUB's Scale of Costs. The Board will assess cost claims for negotiated settlements in the same manner as claims arising from a litigated proceeding. The Board will no longer approve terms

that require the Board to approve all costs claimed as a condition of a negotiated settlement.

11.2 Predetermination of Business Interest Designation in a Negotiated Settlement

Participants in the negotiated settlement process may seek predetermination of their eligibility for cost recovery. While there is no prescribed filing time limit for predetermination, parties are encouraged to file as early as possible. Participants seeking predetermination must provide the Board with the information described in Section 8.

Appendix A Public Utilities Board Act, Section 68

Costs of Proceedings

68(1) The costs of and incidental to any proceeding before the Board, except as otherwise provided in this Act, are in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

(2) The Board may order that its costs of or incidental to any proceeding before the Board are to be paid and by whom they are to be paid.

(3) The Board may order by whom and to whom any costs are to paid, and by whom they are to be taxed and allowed.

(4) The Board may prescribe a scale under which costs are to be taxed.

(5) The Board may, with the approval of the Lieutenant Governor in Council, prescribe the fees to be paid by local authorities or persons interested in the matters that come before the Board.

Appendix B Rules of Practice, Part 5

PART 5—COSTS

Costs

49 In this Part,

(a) "costs order" means an order of the Board awarding costs on a claim for costs;

(b) "energy proceeding" means a proceeding conducted under the *Energy Resources Conservation Act*;

(c) "guidelines" means

(i) for the purposes of costs in an energy proceeding, *Guide 31A, Guidelines for Energy Cost Claims*, as amended from time to time, published by the Board, and

(ii) for the purposes of costs in a utilities proceeding, *Guide 31B, Guidelines for Utility Cost Claims*, as amended from time to time, published by the Board;

(d) "participant" means

(i) for purposes of costs in an energy proceeding, a local intervener as defined in section 31 of the *Energy Resources Conservation Act*, and

(ii) for purposes of costs in a utilities proceeding, an applicant or intervener;

(e) "scale of costs" means the *Alberta Energy and Utilities Board Scale of Costs*, as amended from time to time, published by the Board;

(f) "utilities proceeding" means a proceeding conducted under the *Electric Utilities Act* or *Public Utilities Board Act*.

Advance of funds request

50(1) A participant who intends to take part in a proceeding may, at any time during the proceeding, make a request to the Board for an advance of funds in accordance with the guidelines.

(2) The Board may award an advance of funds to a participant if the participant demonstrates a need for financial assistance to address relevant issues in the proceeding.

(3) If the Board awards an advance of funds to a participant under subsection (2), the Board may

(a) advance the funds to the participant and

(i) set out the terms for repayment of the advance to the Board by the participant, or

(ii) direct the applicant to reimburse the Board for the funds advanced to the participant,

or

(b) direct the applicant to advance funds to the participant and set out the terms for repayment of the advance to the applicant by the participant.

Budget to be filed

51 The Board may, at any time during a proceeding, require a participant to file a budget of the participant's anticipated costs in the proceeding in accordance with the guidelines.

Interim awards

52(1) A participant may apply to the Board for an award of interim costs incurred in a proceeding by filing an interim costs claim in accordance with the guidelines.

(2) A participant may only claim interim costs in accordance with the scale of costs.

(3) The Board may award interim costs to a participant if the Board is of the opinion that

(a) the costs are reasonable and directly and necessarily related to the proceeding,

(b) the proceeding in which interim costs are claimed is lengthy, and

(c) the participant has demonstrated a need for financial assistance to continue to address relevant issues in the proceeding.

(4) If the Board awards interim costs to a participant under subsection (3), the Board may

(a) pay the interim costs to the participant and

(i) set out terms for repayment of the interim costs to the Board by the participant if the Board varies or denies costs on a claim for costs filed by the participant at the close of the proceeding, or

(ii) direct the applicant to reimburse the Board for the interim costs paid to the participant,

or

(b) direct the applicant to pay the interim costs to the participant and set out terms for repayment of the interim costs to the applicant by the participant if the Board varies or denies costs on the claim for costs filed by the participant at the close of the proceeding.

Costs claim

53(1) A participant may apply to the Board for an award of costs incurred in a proceeding by filing a costs claim in accordance with the guidelines.

(2) A participant may only claim costs in accordance with the scale of costs.

(3) Unless otherwise directed by the Board, a participant shall

(a) file a claim for costs within 30 days after the proceeding is closed, and

(b) serve a copy of the claim on the other participants.

(4) An applicant may, in a utility proceeding, submit as part of the applicant's claim for costs a request to the Board to record in the applicant's hearing costs reserve account costs that are reasonable and directly and necessarily related to the proceeding.

(5) After receipt of a claim for costs, the Board may direct the participant who filed the costs claim to file additional information or documents with respect to the costs claimed.

Comments on costs claim

54**(1)** Unless otherwise specified by the Board, in an energy proceeding,

(a) within 14 days of the deadline for the filing of a claim for costs referred to in section 53, the applicant in the proceeding to which the costs relate shall file and serve on the participant who filed the costs claim a submission detailing any questions and comments on the costs claimed, and

(b) within 14 days of the receipt of the applicant's comments under clause (a), the participant shall file and serve on the applicant a reply respecting those comments.

(2) Unless otherwise specified by the Board, in a utilities proceeding,

(a) within 14 days of the receipt of a summary of costs prepared by the Board from the costs claims submitted by one or more of the participants, each participant shall file and serve on the other participants a submission detailing any questions and comments on the summary of costs, and

(b) within 14 days of the receipt of the comments from one or more participants under clause (a), each participant shall file and serve on the other participants a reply respecting those comments.

Costs award

55**(1)** The Board may award costs, in accordance with the scale of costs, to a participant if the Board is of the opinion that

(a) the costs are reasonable and directly and necessarily related to the proceeding, and

(b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

(2) In determining the amount of costs to be awarded to a participant, the Board may consider whether the participant did one or more of the following:

(a) asked questions on cross-examination that were unduly repetitive of questions previously asked by another participant and answered by that participant's witness;

(b) made reasonable efforts to ensure that the participant's evidence was not unduly repetitive of evidence presented by another participant;

(c) made reasonable efforts to cooperate with other participants to reduce the duplication of evidence and questions or to combine the participant's submission with that of similarly interested participants;

(d) presented in oral evidence significant new evidence that was available to the participant at the time the participant filed documentary evidence but was not filed at that time;

(e) failed to comply with a direction of the Board, including a direction on the filing of evidence;

(f) submitted evidence and argument on issues that were not relevant to the proceeding;

(g) needed legal or technical assistance to take part in the proceeding;

(h) engaged in conduct that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;

(h.1) in utility proceedings, the participant took part in the proceedings for the sole purpose of protecting their business interest

(i) failed to comply with this Part.

Liability for costs

56 Unless the Board otherwise directs,

(a) in a proceeding that relates to a specific licensee, operator or approval holder, the licensee, operator or approval holder shall pay the costs awarded to a participant, and

(b) in a proceeding that relates to policies or concerns respecting the exploration, processing, development or transportation of energy resources or to policies or concerns respecting utilities in general, the Board may pay the costs awarded to a participant.

Costs order

57(1) Where the Board has awarded costs in a proceeding, the Board shall issue a costs order setting out the amount awarded and to whom and by whom the payment must be made.

(2) The Board shall serve a copy of the costs order on the participant making the claim and on the applicant.

(3) An applicant named in a costs order shall pay the amount awarded to the participant within 30 days of being served with a copy of the costs order under subsection (2).

(4) A costs order issued in a utility proceeding may state whether an applicant named in the order is authorized to record the costs in its hearing costs reserve account.

Review request

58(1) A party to a costs order may, within 30 days of the date of service of the order, apply to the Board for a review of the order.

(2) An application for a review of a costs order must be made in accordance with section 46.

Appendix C Scale of Costs

The Scale of Costs represents a fair and reasonable tariff to provide any interested party with adequate, competent, and professional assistance in making an effective submission before the Board. In a case where a party can advance persuasive argument that the scale of consumer or applicant contribution is inadequate given the complexity of the case, the Board may award an amount greater than stated in the Scale of Costs to address such unique circumstances.

1 Professional Fees

The Scale of Costs provides a sliding scale for professional fees; as the professional's experience increases, so will his or her value and wage. The Board emphasizes that the maximum allowable hourly rates will not be awarded as a matter of course. Rather, the Board will assess each claim upon its individual merits and will only approve the maximum fee when it has been demonstrated that such a charge is warranted by the work performed. The Board allows professionals only half of their hourly rate for travel time.

Claims for professional fees must be accompanied by a statement of account.

Statements of account must include the following:

- the date of activity undertaken;
- a description of the activity undertaken; and
- the time incurred with respect to each described service.

Legal Fees

Paralegal	$65.00/hour
Articling students	$90.00/hour
1-4 years at the bar	$140.00/hour
5-7 years at the bar	$180.00/hour
8-12 years at the bar	$220.00/hour
More than 12 years at the bar	$250.00/hour

Legal fees are deemed to include all overhead charges implicit in the normal operation of a law firm. The Board will not consider fees for secretarial work. In certain situations, it may also be appropriate for a paralegal to work on the application or intervention. The Board will consider such claims only if it can be demonstrated that the work performed required the expertise of a paralegal and could not have been performed by a legal assistant.

Fees of Consultants, Analysts, and Experts

Secretarial/support staff	$45.00/hour
1-4 years' experience	$100.00/hour
5-7 years' experience	$140.00/hour
8-12 years' experience	$210.00/hour
More than 12 years' experience	$250.00/hour

The Board recognizes that the above professionals may not include the costs of secretarial work in their fees and thus may recognize a claim for secretarial or clerical services. However, the Board will not recognize claims for overhead based upon percentages of the fees or disbursements claimed.

2 Disbursements

All receipts relating to a claim for disbursements must be legible and clearly identify the date upon which the receipt was issued. **The EUB will not request clarification for receipts that do not satisfy these requirements, and the related claim may not be approved.**

Office Disbursements

The Board will consider claims for the following office disbursements incurred throughout the participant's involvement in the proceeding:

- courier charges
- long-distance telephone calls
- photocopies ($0.10/page)
- fax ($1.00/page)
- computer charges
- postage
- transcripts (must be accompanied by a receipt)

The Board does not require claimants to submit receipts for the above disbursements (other than transcripts) with their initial cost claims. Claimants should, however, retain receipts for such disbursements, as the Board will require their submission if the claim is selected for audit. Office disbursements other than those listed above may be listed as miscellaneous, with a short explanation of the expenses claimed attached.

Personal Disbursements

The Board will consider claims for the following personal disbursements that are incurred during the hearing phase of the proceeding.

Meals

The maximum allowable claim for meals is $40.00 per day ($10.00 for breakfast, $15.00 for lunch and dinner each). Claims for meals are restricted to the hearing phase of a

proceeding. Tips are not claimable. Receipts are required for all meals claimed, with the date of the meal marked on the receipt.

Accommodation

The maximum allowable claim for accommodation is $140.00 per day maximum. Receipts must accompany all claims for accommodation. Claims for accommodation are restricted to the hearing phase of a proceeding.

Travel

The Board's mileage rate for automobile travel is $0.30/km (including GST). This portion of a claim is restricted to intercity travel distances of 50 km or greater.

The Board will recognize claims for airfare at economy rates or less. Claims for airfare must be accompanied by a receipt supporting the claim. Claims for airfare are restricted to the hearing phase of the proceeding. Receipts must clearly identify the date of departure and arrival.

Taxi

Taxi claims are restricted to the hearing phase of the proceeding. Claims for taxi fares need not be accompanied by a receipt. Tips are not claimable. Claimants should, however, retain such receipts in the event that the Board directs an audit of the claim.

Parking

Parking charges are restricted to the hearing phase of the proceeding. Claims for parking costs need not be accompanied by a receipt. Tips are not claimable. Claimants should, however, retain such receipts in the event that the Board directs an audit of the claim.

Appendix D Cost Forms

EUB Alberta Energy and Utilities Board

Summary of Total Costs Claimed

Form U1 - Page 1 of 1

Date _____

Firm/Company Name	Total Fees	Total Disbursements	GST: Total GST on Fees & Disbursements	Total Fees, Disbursements, & GST
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
TOTAL COSTS CLAIMED				

Claimant _____

Agent/Representative _____

Address _____

Phone _____ Fax _____

E-mail _____

Applicant(s) _____

Application(s) No. _____

Hearing _____

EUB Alberta Energy and Utilities Board

Summary of Professional Fees Claimed

Form U2 - Page 1 of 2

Date _____

	PROFESSIONAL FEES										GST	Total
	Years of Experience	Hourly Wage	Preparation		Attendance		Argument & Reply		Total Fees		Total GST on Professional Fees	Fees & GST
			Hours	Fees	Hours	Fees	Hours	Fees	Hours	Fees		
FIRM/COMPANY NAME												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Total This Company												
FIRM/COMPANY NAME												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Total This Company												

Claimant _____ _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

EUB Alberta Energy and Utilities Board

Summary of Professional Fees Claimed

Form U2 - Page 2 of 2

Date _____

	PROFESSIONAL FEES										GST	Total
	Years of Experience	Hourly Wage	Preparation		Attendance		Argument & Reply		Total Fees		Total GST on Professional Fees	Fees & GST
			Hours	Fees	Hours	Fees	Hours	Fees	Hours	Fees		
FIRM/COMPANY NAME												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Total This Company												
FIRM/COMPANY NAME												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Total This Company												
TOTAL PROFESSIONAL FEES CLAIMED												

Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

Alberta Energy and Utilities Board 640 5 Avenue SW Calgary, Alberta Canada T2P 3G4

EUB Alberta Energy and Utilities Board

Summary of Disbursements Claimed

Form U3 - Page 1 of 2

Date _____

Disbursements Claimed (exclusive of GST)	Name of Claimant	Name of Claimant	Name of Claimant	Name of Claimant	Total Disbursements
Airfare					
Accommodation (maximum $140/day + provincial hotel tax)					
Meals (maximum $40/day)					
Mileage ($.30/km)					
Taxi					
Parking					
Car rental					
Transcripts					
Postage					
Courier/delivery					
Telephone/long distance					
Fax ($1.00/page)					
Internal photocopying ($.10/copy)					
External printing					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS					
Total GST on Disbursements					

Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

Alberta Energy and Utilities Board 640 5 Avenue SW Calgary, Alberta Canada T2P 3G4

EUB Alberta Energy and Utilities Board

Summary of Disbursements Claimed

Form U3 - Page 2 of 2

Date _____

Disbursements Claimed (exclusive of GST)	Name of Claimant	Name of Claimant	Name of Claimant	Name of Claimant	Total Disbursements
Airfare					
Accommodation (maximum $140/day + provincial hotel tax)					
Meals (maximum $40/day)					
Mileage ($.30/km)					
Taxi					
Parking					
Car rental					
Transcripts					
Postage					
Courier/delivery					
Telephone/long distance					
Fax ($1.00/page)					
Internal photocopying ($.10/copy)					
External printing					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS					
Total GST on Disbursements					

Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

Alberta Energy and Utilities Board 640 5 Avenue SW Calgary, Alberta Canada T2P 3G4

EUB Alberta Energy and Utilities Board

AFFIDAVIT OF FEES AND DISBURSEMENTS
Form U4

AFFIDAVIT OF FEES AND DISBURSEMENTS CLAIMED IN THE MATTER OF A CLAIM FOR COSTS MADE BY _____ FOR PARTICIPATION IN A PROCEEDING BEFORE THE ALBERTA ENERGY AND UTILITIES BOARD WITH RESPECT TO APPLICATION(S) NO._____

I, _____, of the (city/town) of _____ and the Province of _____, MAKE OATH (OR AFFIRM) AND SAY THAT:

1) I am the _____ of the cost claimant _____ (the "Claimant") and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, and where so stated, I do verily believe to be true.

2) The Claimant was an (applicant/intervener) in a proceeding (the "Proceeding") before the Board with respect to the above application(s).

3) The Claimant incurred fees and disbursements (exclusive of GST) in the amount of $_____ as a result of its participation in the Proceeding. Additionally, the Claimant incurred GST on the above fees and disbursements in the amount of $_____.

4) I have personally reviewed the accounts of the Claimant's (lawyer(s), consultant(s), witness(s)), including the supporting documentation as required by the *Scale of Costs*, and confirm that these accounts represent work performed at the specific request of the Claimant.

5) I have personally reviewed all receipts, invoices, or accounts for transcripts, airfare, or accommodation and confirm that they represent disbursements incurred at the specific request of the Claimant.

6) I confirm that the fees and disbursements claimed on behalf of the Claimant's lawyer(s), expert(s), or consultant(s) are reasonable and in accordance with the EUB's *Scale of Costs*.

7) (if necessary) The fees claimed on behalf of _____ are in excess of the EUB's *Scale of Costs*. However, I believe that the Claimant should be entitled to recover such costs because _____
_____

8) To the best of my knowledge and belief, the fees and disbursements claimed by the Claimant represent fees and disbursements incurred necessarily and reasonably for the purpose of the Proceeding.

9) (if necessary) The Claimant is entitled to a rebate in connection with the Federal Goods and Services Tax to the extent of _____%. The Claimant's GST number is _____.

SWORN (OR AFFIRMED) before me at the (City/Town, etc.) of _____, in the Province of _____ on (date) _____.

Commissioner of Oaths

_____

Signature of Affiant

_____

Alberta Energy and Utilities Board 640 5 Avenue SW Calgary, Alberta Canada T2P 3G4

Appendix E Sample Cost Forms

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Total Costs Claimed

Form U1 - Page 1 of 1

Date June 22, 2001

	Total Fees	Total Disbursements	GST: Total GST on Fees & Disbursements	Total Fees, Disbursements, & GST
Firm/Company Name: Albert & Co., Barristers & Solicitors	A - from U2 $17,880.00	D - from U3 $6,741.59	$1,723.51	$26,345.10
Firm/Company Name: Vulcan Engineering	B - from U2 $17,230.00	E- from U3 $2,694.55	$1,394.72	$21,319.27
Firm/Company Name: George Economics Inc.	C - from U2 $3,562.50		$248.21	$3,810.71
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
Firm/Company Name				
TOTAL COSTS CLAIMED	$38,672.50	$9,436.14	$3,366.44	$51,475.08

Claimant Local Industrial Generators of Alberta

Agent/Representative John Albert, Albert & Co., Barristers & Solicitors

Address #3000, 1234 - 5th Street SW, Calgary, AB T2Z 14R

Phone (403) 2334-7896 Fax (403) 234-7897

E-mail john.albert@the company.com

Applicant(s) Genco Company Ltd.

Application(s) No. 2001012, 2001013

Hearing Genco Company Ltd. 2001 GCRR

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Professional Fees Claimed

Form U2 - Page 1 of 2

Date June 22, 2001

			PROFESSIONAL FEES								GST	Total
	Years of Experience	Hourly Wage	Preparation Hours	Preparation Fees	Attendance Hours	Attendance Fees	Argument & Reply Hours	Argument & Reply Fees	Total Fees Hours	Total Fees Fees	Total GST on Professional Fees	Fees & GST
FIRM/COMPANY NAME Albert & Co., Barristers & Solicitors												
Individual Name: John Albert	13.0	$250.00	28.00	$7,000.00	18.00	$4,500.00	2.00	$500.00	48.00	$12,000.00	$840.00	$12,840.00
Individual Name: Sally Park	3.0	$120.00	22.00	$2,640.00	18.00	$2,160.00			40.00	$4,800.00	$336.00	$5,136.00
Individual Name: Jimmy Smith	3.0	$90.00	12.00	$1,080.00					12.00	$1,080.00	$75.60	$1,155.60
Individual Name												
Individual Name										A - to U1		
Total This Company			62.00	$10,720.00	36.00	$6,660.00	2.00	$500.00	100.00	$17,880.00	$1,251.60	$19,131.60
FIRM/COMPANY NAME Vulcan Engineering												
Individual Name: Bill Vulcan	11.0	$220.00	44.00	$9,680.00	18.00	$3,960.00	2.00	$440.00	64.00	$14,080.00	$985.60	$15,065.60
Individual Name: Mary Forest	3.0	$90.00	35.00	$3,150.00					35.00	$3,150.00	$220.50	$3,370.50
Individual Name												
Individual Name												
Individual Name										B - to U1		
Total This Company			79.00	$12,830.00	18.00	$3,960.00	2.00	$440.00	99.00	$17,230.00	$1,206.10	$18,436.10

Claimant Local Industrial Generators of Alberta

Applicant(s) Genco Company Ltd.

Hearing Genco Company Ltd. 2001 GCRR

Application(s) No. 2001012, 2001013

EUB Alberta Energy and Utilities Board

Summary of Professional Fees Claimed

SAMPLE FORM

Form U2 - Page 2 of 2

Date June 22, 2001

	Years of Experience	Hourly Wage	PROFESSIONAL FEES: Preparation Hours	Preparation Fees	Attendance Hours	Attendance Fees	Argument & Reply Hours	Argument & Reply Fees	Total Fees Hours	Total Fees Fees	GST: Total GST on Professional Fees	Total: Fees & GST
FIRM/COMPANY NAME George Economics Inc.												
Individual Name: Vera George	19.0	$125.00	12.00	$1,500.00	7.00	$875.00	0.50	$62.50	19.50	$2,437.50	$170.63	$2,608.13
Individual Name: Art McKinley	12.0	$75.00	12.00	$900.00	3.00	$225.00			15.00	$1,125.00	$78.75	$1,203.75
Individual Name												
Individual Name												
Individual Name										C - to U1		
Total This Company			24.00	$2,400.00	10.00	$1,100.00	0.50	$62.50	34.50	$3,562.50	$249.38	$3,811.88
FIRM/COMPANY NAME												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Total This Company												
TOTAL PROFESSIONAL FEES CLAIMED			165.00	$25,950.00	64.00	$11,720.00	4.50	$1,002.50	233.50	$38,672.50	$2,707.08	$41,379.58

Claimant Local Industrial Generators of Alberta

Applicant(s) Genco Company Ltd

Hearing Genco Company Ltd. 2001 GCRR

Application(s) No. 2001012, 2001013

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Disbursements Claimed

Form U3 - Page 1 of 2

Date June 22, 2001

Disbursements Claimed (exclusive of GST)	Name of Claimant John Albert	Name of Claimant Sally Park	Name of Claimant	Name of Claimant	Total Disbursements
Airfare	$680.00	$775.00			$1,455.00
Accommodation (maximum $140/day + provincial hotel tax)	$421.00	$421.00			$842.00
Meals (maximum $40/day)	$120.00	$120.00			$240.00
Mileage ($.30/km)					
Taxi	$65.00				$65.00
Parking					
Car rental	$2,400.00				$2,400.00
Transcripts	$34.00				$34.00
Postage	$112.89	$24.70			$137.59
Courier/delivery	$23.00	$234.00			$257.00
Telephone/long distance	$324.00	$175.00			$499.00
Fax ($1.00/page)	$554.00	$28.00			$582.00
Internal photocopying ($.10/copy)		$230.00			$230.00
External printing					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS	$4,733.89	$2,007.70			D - to U1 $6,741.59
Total GST on Disbursements	$331.37	$140.54			$471.91

Claimant Local Industrial Generators of Alberta

Applicant(s) Genco Company Ltd

Hearing Genco Company Ltd. 2001 GCRR

Application(s) No. 2001012, 2001013

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Disbursements Claimed

Form U3 - Page 2 of 2

Date June 22, 2001

Disbursements Claimed (exclusive of GST)	Name of Claimant Bill Vulcan	Name of Claimant Mary Forest	Name of Claimant	Name of Claimant	Total Disbursements
Airfare	$775.00				$775.00
Accommodation (maximum $140/day + provincial hotel tax)	$421.00				$421.00
Meals (maximum $40/day)	$120.00				$120.00
Mileage ($.30/km)					
Taxi					
Parking					
Car rental					
Transcripts					
Postage	$24.70	$77.50			$102.20
Courier/delivery	$234.00	$126.50			$360.50
Telephone/long distance	$175.00	$59.10			$234.10
Fax ($1.00/page)	$28.00	$88.75			$116.75
Internal photocopying ($.10/copy)	$230.00	$335.00			$565.00
External printing					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS	$2,007.70	$686.85			E - to U1 $2,694.55
Total GST on Disbursements	$140.54	$48.08			$188.62

Claimant Local Industrial Generators of Alberta

Applicant(s) Genco Company Ltd.

Hearing Genco Company Ltd. 2001 GCRR

Application(s) No. 2001012, 2001013

EUB Alberta Energy and Utilities Board

AFFIDAVIT OF FEES AND DISBURSEMENTS
Form U4

AFFIDAVIT OF FEES AND DISBURSEMENTS CLAIMED IN THE MATTER OF A CLAIM FOR COSTS MADE BY

Local Industrial Generators of Alberta **FOR PARTICIPATION IN A PROCEEDING BEFORE THE ALBERTA ENERGY AND UTILITIES BOARD WITH RESPECT TO APPLICATION(S) NO.** 2001012, 2001013

I, John Albert, of the (city/town) of Calgary and the Province of Alberta, MAKE OATH (OR AFFIRM) AND SAY THAT:

1) I am the Solicitor of the cost claimant Local Industrial Generators of Alberta (the "Claimant") and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, and where so stated, I do verily believe to be true.

2) The Claimant was an (applicant/intervener) in a proceeding (the "Proceeding") before the Board with respect to the above application(s).

3) The Claimant incurred fees and disbursements (exclusive of GST) in the amount of $48,108.64 as a result of its participation in the Proceeding. Additionally, the Claimant incurred GST on the above fees and disbursements in the amount of $3,366.44.

4) I have personally reviewed the accounts of the Claimant's (lawyer(s), consultant(s), witness(s)), including the supporting documentation as required by the *Scale of Costs*, and confirm that these accounts represent work performed at the specific request of the Claimant.

5) I have personally reviewed all receipts, invoices, or accounts for transcripts, airfare, or accommodation and confirm that they represent disbursements incurred at the specific request of the Claimant.

6) I confirm that the fees and disbursements claimed on behalf of the Claimant's lawyer(s), expert(s), or consultant(s) are reasonable and in accordance with the EUB's *Scale of Costs*.

7) ~~(if necessary) The fees claimed on behalf of _____ are in excess of the EUB's *Scale of Costs*. However, I believe that the Claimant should be entitled to recover such costs because~~ JA

8) To the best of my knowledge and belief, the fees and disbursements claimed by the Claimant represent fees and disbursements incurred necessarily and reasonably for the purpose of the Proceeding.

9) (if necessary) The Claimant is entitled to a rebate in connection with the Federal Goods and Services Tax to the extent of 0 %. The Claimant's GST number is 1179682.

SWORN (OR AFFIRMED) before me at the (City/Town, etc.) of Calgary, in the Province of Alberta on (date) June 22, 2001.

Commissioner of Oaths

Sue Smith

Signature of Affiant

John Albert

Appendix F Rules of Practice, Section 46

46(1) The Board may, on its own initiative or on application by a person, review an order, decision or direction made by it.

(2) An application for a review under subsection (1) must be in writing and contain the following:

(a) a clear and concise statement of facts relevant to the application;

(b) the grounds on which the application is made;

(c) a brief explanation as to the nature of the prejudice or damage that has resulted or will result from the order, decision or direction;

(d) a brief description of the remedy sought;

(e) the applicant's name, address in Alberta, telephone number, fax number and, if available, e-mail address;

(f) if the applicant is represented by a representative, the representative's name, address in Alberta, telephone number, fax number and, if available, e-mail address.

(3) An application for a review must be filed and served on the parties to the proceeding for which the order, decision or direction of the Board was made.

(4) The Board shall determine, with or without a hearing, in respect of an application for review the preliminary question of whether the matter should be reviewed and whether there is reason to believe the order, decision or direction should be rescinded or varied.

(5) After determining the preliminary question under subsection (4), the Board may

(a) dismiss the application for review if,

(i) in the case where the applicant has alleged an error of law or jurisdiction or an error in fact, the Board is of the opinion that the applicant has not raised a substantial doubt as to the correctness of the Board's order, decision or direction, or

(ii) in the case where the applicant has alleged new facts, a change of circumstances or facts not previously placed in evidence, the Board is of the opinion that the applicant has not raised a reasonable possibility that the new facts, the change in circumstances or the facts not previously placed in evidence, as the case may be, could lead the Board to materially vary or rescind the Board's order, decision or direction, or

(b) grant the application.

(6) If the Board grants the application under subsection (5), it shall issue a notice of review, and a new hearing must be held in accordance with these Rules.

(7) A notice of review under subsection (6) must contain the same information as is contained in a notice of hearing.